

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Norman D. Chester, Jr.,	:	
Petitioner	:	Case No. 2:10-cv-00402
v.	:	Judge Smith
D. Bobby,	:	Magistrate Judge Abel
Respondent	:	

Order Adopting Report and Recommendation

On October 4, 2011, the Magistrate Judge filed a Report and Recommendation that petitioner's motion for summary judgment (doc. 14) be denied. No objections have been filed to the Report and Recommendation.

As the Magistrate Judge found, respondent timely file a return of writ. Further, again as the Report and Recommendation states, failure of a respondent to timely respond to a petition is not a ground for habeas corpus relief. *Allen v. Perini*, 424 F.2d 134, 138 (6th Cir. 1970); *Byrd v. Sweatt*, 2007 WL 3120440 (W.D. Ky. October 23, 2007).

Upon *de novo* review as required by 28 U.S.C. §636(b)(1)(B), the Court ADOPTS the Report and Recommendation.

s/ George C. Smith

George C. Smith
United States District Judge